

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PAUL NILES,

Petitioner,

-against-

SUPERINTENDENT ERNEST J. LOWEN,

Respondent.

23-CV-10145 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, United States District Judge:

Petitioner Paul Niles, who is proceeding *pro se* and currently incarcerated at the Central New York Psychiatric Center, brings this petition for a writ of *habeas corpus* under 28 U.S.C. § 2254, challenging the constitutionality of his October 10, 2017 conviction in the New York Supreme Court, New York County. Petitioner has previously submitted to this court an application in which he challenged the same conviction. That matter is pending under docket number 23-CV-9186 (LTS), and on January 8, 2024, the Court directed Petitioner to file a petition in that action. Because Petitioner seeks to challenge the same conviction in this action, the Court liberally construes the petition in this action as the petition for the action under 23-CV-9186.

Accordingly, the Court directs the Clerk of Court to: (1) file the petition in this case (ECF 1) as the petition in the action under docket number 23-CV-9186 (LTS); (2) file a copy of this order in both actions; and (3) close this case.

CONCLUSION

The Court directs the Clerk of Court to: (1) file the petition in this case (ECF 1) as the petition in the action under docket number 23-CV-9186 (LTS); (2) file a copy of this order in

both actions; and (3) close this case. All other pending matters in this case are terminated. This order closes this case.

Because Petitioner has not at this time made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppededge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: February 22, 2024
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge